

“(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

“(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

“(i) death results from the offense; or

“(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

“(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY.—

“(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity or disability of any person—

“(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

“(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

“(I) death results from the offense; or

“(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

“(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

“(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

“(I) across a State line or national border; or

“(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

“(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

“(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

“(iv) the conduct described in subparagraph (A)—

“(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

“(II) otherwise affects interstate or foreign commerce.

“(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

“(1) such certifying individual has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

“(2) such certifying individual has consulted with State or local law enforcement officials regarding the prosecution and determined that—

“(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

“(B) the State has requested that the Federal Government assume jurisdiction;

“(C) the State does not object to the Federal Government assuming jurisdiction; or

“(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘explosive or incendiary device’ has the meaning given such term in section 232 of this title;

“(2) the term ‘firearm’ has the meaning given such term in section 921(a) of this title; and

“(3) the term ‘gender identity’ for the purposes of this chapter means actual or perceived gender-related characteristics.

“(d) RULE OF EVIDENCE.—In a prosecution for an offense under this section, evidence of expression or associations of the defendant may not be introduced as substantive evidence at trial, unless the evidence specifically relates to that offense. However, nothing in this section affects the rules of evidence governing impeachment of a witness.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

“249. Hate crime acts.”.

SEC. 7. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act, or the amendments made by this Act, shall be construed to prohibit any expressive conduct protected from legal prohibition by, or any activities protected by the free speech or free exercise clauses of, the First Amendment to the Constitution.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 1592.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the hate crimes bill, H.R. 1592, will provide assistance to State and local enforcement agencies and amend Federal law to facilitate the investigation and prosecution of violent, bias-motivated crimes.

Last Congress, this legislation passed with a bipartisan vote, and it also passed in the 108th Congress and the 106th Congress. So we have the same bill before us that we had in the 109th Congress.

This legislation has attracted the support of over 211 civil rights organizations, educational institutions, religious organizations, civic groups; and importantly, virtually every major law enforcement organization in the country has endorsed the bill, including the International Association of Chiefs of Police, the National District Attorneys Association, the National Sheriffs Association, the Police Executive Research Forum and 26 State attorneys general.

Hate crimes are disturbingly prevalent and pose a significant threat to the full participation of all Americans in our democratic society. It just so happens that we documented 113,000 hate crimes by the Federal Bureau of Investigation, and in the year 2005, the most current data available, the FBI compiled reports on law enforcement agencies across the country, identifying 7,163 bias-motivated criminal incidents.

The fact of the matter that is known to law enforcement is that hate crime incidents are notoriously under-reported; and so we come here today to take the civil rights laws that we have passed across the years to the last, final extent, to crimes of violence based on the hate of the individual, intended to intimidate the class or group that that individual comes from.

We have a strong bill. We have more supporters than ever in the Congress and in the national community, and we know that the current law limits Federal jurisdiction over hate crimes against individuals on the basis of race, religion, color or national origin, but only when the victim is targeted because he or she is engaged in a Federal protected activity, such as voting.

Further, the existing statutes do not permit Federal involvement in a range of cases where the crimes are motivated by bias against the victims' actual or perceived sexual orientation, gender, gender identity or disability.

This legislation, identical to the version approved in the 109th Congress, will strengthen existing Federal law in the same way that the Church Arson Prevention Act of 1996 helped Federal prosecutors combat church arson, by addressing the rigid jurisdictional requirements under Federal law and expand the jurisdiction to crimes motivated by bias against the victim's actual or perceived sexual orientation, gender, gender identity or disability.

This bill only applies to bias-motivated crimes of violence. It does not impinge on public speech or writing in any way. In fact, the measure improves two explicit first amendment free speech protections for the accused, and we want you to know that there are no first amendment disabilities about this measure in any way. As a personal advocate of the first amendment, I can assure you that that would be the last thing that would be allowed to be in this bill.

What we are saying now is that a vote for this bill is not a vote in favor of any particular sexual belief or characteristic. It is a vote, rather, to provide basic rights for and protection for individuals so that they are protected from assaults based on their sexual orientation.

But the majority of incidents reported on racially motivated crimes, 54 percent, are based on racially motivated crimes, 17 percent on religious bias, and 14 percent on sexual orientation bias.

The time has come for the Congress to finally deal with this whole subject